

THE WEST PAKISTAN CO-OPERATIVE SOCIETIES AND
CO-OPERATIVE BANKS (REPAYMENT OF LOANS)
ORDINANCE, 1966.
(WEST PAKISTAN ORDINANCE NO. XIV OF 1966.)
[27" April, 1966.]

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THE WEST PAKISTAN CO-OPERATIVE SOCIETIES AND
CO-OPERATIVE BANKS (REPAYMENT OF LOANS)
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(WEST PAKISTAN ORDINANCE NO. XIV OF 1966.)
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AN
ORDINANCE

to provide for the repayment of unsecured loans or loans
insufficiently secured.

WHEREAS it is expedient to provide for the securing and repayment of
such loans taken from the co-operative banks and other co-operative societies as
are not secured or are insufficiently secured;

AND WHEREAS the Provincial Assembly of West Pakistan is not in
session and the Governor of West Pakistan is satisfied that immediate
legislation is necessary;

NOW, THEREFORE, in pursuance of the powers conferred on him by
clause (1) of Article 79 of the Constitution, the Governor of West Pakistan is

pleased to make and promulgate the following Ordinance, namely:—

1. (1) This Ordinance may be called the West Pakistan Cooperative
Societies and Co-operative Banks (Repayment of Loans) Ordinance, 1966.

(2) It extends to the whole of the '[Province of the Khyber
Pakhtunkhwa] except the Tribal Areas.

(3) It shall come into force at once.

2. In this Ordinance, unless there is anything repugnant in the subject or
context.—

(a) "Act" means the Co-operative Societies Act, 1925 (Sindh
VII of 1925);

' Substituted vide Khyber Pakhtunkhwa Act, No. IV of 2011.

Preamble.

Short title, extent
and
commencement.

Definitions .

(b) "Assistant Registrar" means an Assistant Registrar of Co-operative Societies appointed or deemed to have been appointed under the Act to assist the Registrar;

'T(bb) "benami loan" means a loan the real beneficiary or recipient whereof is a person other than the person in whose name the loan is advanced or granted;

(bbb) "borrower" includes in case of a benami loan, the real beneficiary or recipient of the loan;]

(c) "co-operative bank" means a co-operative society established for carrying on banking business and having as its principal object the financing of other co-operative societies registered or deemed to be registered under the Act;

(d) "co-operative society" means a _ society which having as its object the promotion of economic interests of its members in accordance with co-operative principles, is registered or deemed to be registered under the Act;

(e) "Government" means the Government of *[Khyber Pakhtunkhwa.]

) "loan" means a loan (including *["a benami loan or"] any

transaction which in the opinion of the Registrar is in substance a loan), whether of money or in kind, which is not secured or is insufficiently secured, and taken from a co-operative society by any person, whether a member of such society or not, or from a co-operative bank by any person but not a co-operative society and includes—

"1 (i) _ finance as defined in the Banking Tribunals Ordinance, 1984 (LVII of 1984), and all cognate expressions shall be Construed accordingly.]

'Inserted vide Ordinance No. XXV of 1966.

? Substituted vide Khyber Pakhtunkhwa Act, No. IV of 2011.

* Inserted vide Ordinance No. XXV of 1966.

'Inserted vide Khyber Pakhtunkhwa Ord. No. I of 1985.

'[(ii) any amount which is due from any such person to a co-operative society or a co-operative bank, whether taken as a loan or not;

(iii) | any amount due from any such person to a co-operative society or a co-operative bank under a decree passed by a Civil Court or an award given by an arbitrator or a decision of the Registrar, whether in exercise of his original or appellate jurisdiction ; and

(iv) any loan due from any such person to a co-operative society or a co-operative bank which is the subject matter of any pending arbitration proceedings, appeal or revision whether under the Act or before any Court.

Explanation.— A loan is "insufficiently secured" if it is not secured by mortgage, pledge, hypothecation or assignment of such property of the borrower or of his surety or of both, as in the case of a loan not exceeding thirty thousand rupees, the Assistant Registrar, and in the case of a loan exceeding thirty thousand rupees, the Registrar may think adequate; and]

(g) "Registrar" means a Registrar of Co-operative Societies appointed or deemed to have been appointed under the Act, and includes a person upon whom 71.....] the powers of a Registrar have been conferred under the Act.

3. Notwithstanding anything contained in any other law for the time being in force or in any agreement or other instrument, award or decree of any Court, every loan outstanding for more than one year after the date when it was repayable, whether barred by limitation or not, in whole or in part, and every loan or any installment whereof was outstanding for more than one year after it became due, shall, unless repaid earlier, be repaid and secured in the manner provided in section 7.

4. Every co-operative society and co-operative bank, through its manager or Secretary, shall—

(a) when a loan obtained from it is not repaid by the date on which it is due for repayment, bring such fact, together with full details of the case and the particulars of the

' Re-numbered vide Khyber Pakhtunkhwa. Ord. No. I of 1985.
? Omitted vide Khyber Pakhtunkhwa Ord. No. XII of 1981.

Repayment of loans.

Supply of information to the Registrar.

borrower '[including, in the case of a benami loan, the real (beneficiary or recipient of the loan)] and the surety, to the notice of the Assistant Registrar, when the amount of the loan does not exceed thirty thousand rupees, and to the notice of the Registrar, when the amount of the loan exceeds thirty thousand rupees; and

(b) when so directed by the Registrar or the Assistant Registrar, as the case may be, within thirty days of receipt of such direction, furnish to the Registrar, full information in respect of all cases of loans falling under section 3 required to be repaid or secured under section 7.

5. (1) On receipt of information under section 4 in respect of any loan, the Registrar or the Assistant Registrar, as, the case may be, shall issue or cause to be issued a notice to the borrower and his surety requiring them to repay and secure the loan in accordance with the provisions of section 8.

(2) A notice under sub-section (1) may be served—

(a) by giving or tendering it to the persons named in the notice; or

(b) by enclosing it in a cover and send such cover by registered post, acknowledgement due, to the last known address of the person named in the notice; or

(c) by affixing such notice on a conspicuous part of the last known residence of the person named in the notice or;

(da) by publication of the notice in a newspaper.

6. Where any borrower or his surety, to whom notice under section 5 is issued, does not admit the loan or any liability arising therefrom, such borrower or surety, as the case may be, shall, within thirty days of the receipt of the notice, submit, either personally or by registered post (acknowledgment due), a written statement to that effect to the Registrar, or the Assistant Registrar, by whom such notice was issued or caused to be issued, and such Registrar or Assistant Register, as the case may be thereupon shall cause notice to be issued to the Co-operative Society, or the Co-operative Bank, as the case may be, and in the case of benami loan to the alleged beneficiary, and shall, after making

' Inserted vide W. P. Ord. No. XXV of 1966.

Service of notice
to the borrowers.

Determination of
liability when loan
is not admitted.

such inquiry as he may consider necessary and giving the parties a reasonable opportunity of being heard, decide the matter.

7. Within sixty days of the service of the notice under section 5 in a case where the borrower does not deny the loan or the liability arising thereon, and in the other case, within sixty days of the decision of the Registrar or the Assistant Registrar, as the case may be, under section 6, the borrower and his surety shall:—

(a) secure the loan or the liability arising therefrom by mortgage, pledge, hypothecation or assignment of such property of the borrower or his surety or of both as, in the case of a loan not exceeding thirty thousand rupees, the Assistant Registrar, and in the case of a loan exceeding thirty thousand rupees, the Registrar, may think adequate; and

(b) repay fifteen per cent of the loan within six months of the service of notice under section 5, when he does not deny the loan or the liability arising therefrom, and in any other case, within six months of the case decision of the Registrar or the Assistant Registrar, as the case may be; and

(c) repay the balance of the loan in twelve equal half yearly installments, the first installments being six months after the expiry of the period specified in clause (b).

‘18. (1) If the amount of any loan or any part thereof to be repaid in accordance with the provision of section 7 is not paid within the period or the periods specified in the said section, the same may, without prejudice to the provisions of section 10, be recovered according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.]

°[(2) Where the borrower is a firm, partnership, company or other association of persons (not being a company registered under the Companies Act, 1913, the liability of the members whereof is limited), the loan or any part thereof due from such borrower may be recovered from the assets of such firm, partnership, company or other association of persons, as the case may be, or from the members or partners thereof.]

' Re-numbered vide W. P. Ord. NO. XXV of 1966.

* Added vide W.P. Ord. No. XXV of 1966.

Securing and
repayment of
loan.

Recovery of
loans.

'18-A. (1) Notwithstanding anything contained in any other law for the time being in force, no Registering officer shall register any document relating to property, which is required to be registered under the provisions of clause (a), (b), (c) or (e) of section 17 of the Registration Act, 1908, or which is produced before him for voluntary registration, nor shall any Revenue Officer on the basis of any such document effect any mutation in the Record of Rights under the provisions of any law for the time being in force, unless—

(a) the person whose right, title or interest in the property is or will be transferred, assigned, limited or extinguished under the terms of the document or on the basis of the mutation in the Record of Rights, as the case may be, furnishes an affidavit to the Registering Officer or the Revenue Officer, as the case may be, to the effect that he does not owe any loan, whether due immediate or on a future date, to a Co-operative Society or a Co-operative Bank; or

(b) where such person owes a loan to a co-operative society or a Co-operative bank, whether due immediately or on a future date, it is certified by the Registrar where the loan owed by such person exceeds rupees thirty thousands, and by the Assistant Registrar where the loan owed by such person does not exceed rupees thirty thousands, that either satisfactory arrangements have been made for the repayment of the loan or that the loan has been secured in accordance with the provisions of section 7.

2. Where an application is made to the Registrar or an Assistant Registrar, as the case may be, for issuing a certificate under the provisions of sub-section (1), he shall not refuse to issue the certificate unless he has first given the applicant an opportunity of being heard and adducing evidence to show that either satisfactory arrangements have been made for the repayment of the loan owed by the applicant or that the loan has been secured in accordance with the provisions of section 7.

3. An order made by the Registrar or an Assistant Registrar under sub-section (2) refusing to issue a certificate, shall be final and not open to question in any manner.

"Inserted vide W. P. Ord. No. XXV of 1966.

Restrictions on
registration of
documents.

8-B. (1) Where any person owing a loan, whether due immediately or on a future date, to a co-operative society or a co-operative bank has, on or after the twenty-seventh day of April, 1966, alienated any immovable property, by sale, exchange, gift, mortgage or will, other-wise than by or under an order or decree of a Civil, Revenue or Criminal Court, which alienation is fraudulent with intent to defeat the claim of a Co-operative Society or a Co-operative Bank, such alienation shall not operate to transfer any right, title or interest in the property of the debtor, unless—

(a) The loan due from the debtor has been repaid; or

(b) it is certified by the Registrar, where the loan exceeds rupees thirty thousands, and by the Assistant Registrar, where the loan does not exceed rupees thirty thousands, that either satisfactory arrangements have been made for the repayment of the loan or that the loan has been secured in accordance with the provisions of section 7.

(2) An alienation of immovable property shall be deemed to be fraudulent with intent to defeat the claim of a co-operative society or a Co-operative Bank for the purposes of sub-section (1), if the Registrar, after giving the person by whom the alienation has been made, and the person or persons in whose favour the alienation has been made an opportunity of being heard, issues a declaration to the effect that the alienation is fraudulent with intent to defeat the claim of a Co-operative Society or a Co-operative Bank.

(3) Any party aggrieved by a decision made by the Registrar under sub-section (2) may prefer an appeal to Government against such decision, and the order made by Government, on such appeal [After giving the applicant an opportunity of being heard] shall be final and shall not be open to question in any manner.]

9. The Registrar or the Assistant Registrar, as the case may be, shall, for the purpose of making any inquiry under this Ordinance, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Act No.V of 1908), when trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery or production of any document ;

"Inserted vide Khyber Pakhtunkhwa Ord. No. III of 1985.

Restriction on alienations.

Powers of Registrar when making inquiry.

(c) requisitioning any public record from any Court or office;

(da) issuing commissions for the examination of witnesses ;

(e) appointing guardians or next friends of persons who are minors or of unsound mind;

) adding legal representative of deceased borrowers or sureties;

(g) substituting the names of rightful parties, including the beneficiaries of benami loans;

(h) consolidation of cases;

(i) any other matter which may be prescribed by rules made under section 12; and

@) enforcing any order made by him under the provisions of this Ordinance or the rules framed thereunder.

'19-A. Revision.— (1) When any decision or award is made by the Registrar, or a person exercising the powers of the Registrar, Government may at any time, suo moto or on application by an aggrieved party, call for and examine the record of any inquiry or proceeding relating thereto for the purpose of satisfying itself as to the legality or propriety of such decision or award.

(2) When any decision or award is made by an Assistant Registrar the Registrar may suo moto or on an application by an aggrieved party, call for and examine the record of any inquiry or proceeding relating thereto for the purpose of satisfying himself as to the legality or propriety of such decision or award.

(3) If after examining the aforesaid record, Government or Registrar, as the case may be, is of the opinion that the decision or award should be modified, annulled or reversed, it or he may, after giving the parties an opportunity of being heard pass such order thereon as may be deemed just and proper, and the order so passed shall be final and conclusive:

Provided that any order passed by the Registrar in exercise of his revisional powers shall not be further revisable by Government:

Provided further that the power under sub-section (1) or sub-section (2) against the decision or award under this Ordinance shall not be exercisable after a period of six months from the date of making of a decision or

' Inserted vide Khyber Pakhtunkhwa, Ord No. XII of 1981.

award or the commencement of the '[Khyber Pakhtunkhwa] Co-operative Societies and Co-Operative Banks (Repayment of loans) (Amendment) Ordinance, 1981, which ever may be later.]

10. Whoever contravenes any of the provisions of this Ordinance or the rules made thereunder shall be punishable with imprisonment for a term which may extend to seven years, or with fine, which, in the case of default in the repayment of a loan, shall not be less than one-fourth of the amount of the loan outstanding against him, or with both.

11. *[(1)] No Court shall take cognizance of any offence made by the Registrar or an Assistant Registrar, or by a person duly authorised 3Tin this behalf] by the Registrar or Assistant Registrar.

"[(2) Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1898 (V of 1898) the Provisions of chapter XX of the said Code shall apply to the trial of cases under this Ordinance.

12. Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Ordinance.

13. (1) No Court or other authority shall have jurisdiction: —

(a) to entertain or adjudicate upon any matter which
*[Government, the Registrar] or the Assistant Registrar is empowered by or under this Ordinance or the rules framed thereunder to dispose of or determine; or

(b) to question the legality or validity of anything done under this Ordinance or the rules framed thereunder by
'[Government, the Registrar] or Assistant Registrar.

(2) No Court or other authority shall be competent to grant an injunction or other order in relation to any proceedings before the [Government, the Registrar] or the Assistant Registrar, or anything done or to be done or at the instance of the *[Government, the Registrar] or the Assistant Registrar under this Ordinance, or the rules framed thereunder.

' Substituted vide Khyber Pakhtunkhwa Act, No. IV of 2011.

? Re-numbered vide Khyber Pakhtunkhwa Act, No. XII of 1981.

* Inserted vide Khyber Pakhtunkhwa Ord. No. XII of 1981.

* Added vide Khyber Pakhtunkhwa Ord. No. XII of 1981..

* Substituted vide W.P. Ord. No. XXV of 1966.

° Substituted vide W.P. Ord. No. XXV of 1966.

7 Substituted vide W.P. Ord. No. XXV of 1966.

* Substituted vide W.P. Ord. No. XXV of 1966.

Penalty.

Procedure.

Power to make
tules.

Bar of Jurisdiction.